

REMARKS

In the Office Action mailed October, 23 2006, the Office Action rejected claims 1, 3-5, 7-10, 14, 16-18, 20 and 21 under 35 U.S.C. §102. The Office Action also rejected claim 13 under 35 U.S.C. §103. Claims 1, 3, 8, 10, 12, 14, 16 and 21 have been amended and claims 2, 11 and 15 have been canceled without prejudice.

Applicants respectfully respond to this Office Action.

I. Drawings

Applicants submit that the above amendments to the drawings do not make any substantive changes or introduce any new material but are simply the correction of typographical errors, which are consistent with the specification as originally submitted. Therefore, approval and entry of the above amendments are respectfully requested.

II. Specification

Applicants provide herewith amendments to the specification. The amendments to the specification are made by presenting marked up replacement paragraphs which identify changes made relative to the immediate prior version.

The changes made are primarily typographical or grammatical in nature, or involve minor clarifications of awkward wordings.

Applicants believe these changes add no new matter to the application and are fully supported by the original disclosure.

III. Objection of Claims 3, 10-12 and 16

The Office Action objected to claims 3, 10-12 and 16 because of informalities. Claims 3, 10, 12 and 16 have been amended as suggested by the Office Action to correct such informalities. Claim 11 has been cancelled.

IV. **Rejection of Claims 1, 3-5, 7, 14, 16-18, 20 and 21 Under 35 U.S.C. § 102(b)**

The Office Action rejected claims 1, 3-5, 7, 14, 16-18, 20 and 21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,163,524 to Magnusson et al. (hereinafter, “Magnusson”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Magnusson. Magnusson does not disclose all of the limitations in these claims.

Claim 1 has been amended to recite, in pertinent part, “wherein each of the available spreading sequences in the group is generated from a different block of codes, and wherein the scheduler is further configured to select the spreading sequence having the lowest number of the available spreading sequences that can be generated using its respective block of codes.” Support for this amendment may be found in Applicants’ specification in the now cancelled claim 2.

The Office Action stated “Claim 2 [is] objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim any intervening claims.” See Office Action page 6. Claim 1 was the base claim for claim 2. Claim 1 has been amended to incorporate the elements of claim 2.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from the cited reference. Accordingly, Applicants respectfully request that the rejection of this claim be withdrawn.

Claims 3-5 and 7 depend directly from claim 1. As such, Applicants respectfully request that the rejection of claims 3-5 and 7 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

Claim 14 has been amended to recite, in pertinent part, “wherein each of the available spreading sequences in the group is generated from a different block of codes, and wherein the selection means selects the spreading sequence having the lowest number of the available spreading sequences that can be generated using its respective block of codes.” Support for this amendment may be found in Applicants’ specification in the now cancelled claim 15.

The Office Action stated “Claim 15 [is] objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim any intervening claims.” See Office Action page 6. Claim 14 was the base claim for claim 15. Claim 14 has been amended to incorporate the elements of claim 15.

In view of the foregoing, Applicants respectfully submit that claim 14 is patentably distinct from the cited reference. Accordingly, Applicants respectfully request that the rejection of this claim be withdrawn.

Claims 16-18 and 21 depend directly from claim 14. As such, Applicants respectfully request that the rejection of claims 16-18 and 20 be withdrawn for at least the same reasons as those presented above in connection with claim 14.

Claim 21 has been amended to recite, in pertinent part, “wherein each of the available spreading sequences in the group is generated from a different block of codes, and wherein the scheduler is further configured to select the spreading sequence having the lowest number of the available spreading sequences that can be generated using its respective block of codes.” Support for this amendment may be found in Applicants’ specification in the now cancelled claim 2.

The Office Action stated “Claim 2 [is] objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim any intervening claims.” See Office Action page 6. Claim 21, as amended, includes each claim element previously included in claim 2, which was identified by the Office Action as allowable subject matter. Id.

In view of the foregoing, Applicants respectfully submit that claim 21 is patentably distinct from the cited reference. Accordingly, Applicants respectfully request that the rejection of this claim be withdrawn.

V. Rejection of Claims 8-10 Under 35 U.S.C. § 102(e)

The Office Action rejected claims 8-10 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,054,294 B2 to Magnusson (hereinafter, “Magnusson2”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Magnusson2. Magnusson2 does not disclose all of the limitations in these claims.

Claim 8 has been amended to recite, in pertinent part, “wherein the identified spreading sequence is generated from a block of codes, and if the target length is less than the length of the identified spreading sequence, the scheduler is further configured to remove from the available spreading sequences those spreading sequences that can be generated from at least one of the codes from the block, and select the spreading sequence from the remaining available spreading sequences if at least one of the remaining available spreading sequences has a length equal to the target length.” Support for this amendment may be found in Applicants’ specification in the now cancelled claim 11.

The Office Action stated “Claim 11 [is] objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim any intervening claims.” See Office Action page 6. Claim 8 was the base claim for claim 11. Claim 8 has been amended to incorporate the elements of claim 11.

In view of the foregoing, Applicants respectfully submit that claim 8 is patentably distinct from the cited reference. Accordingly, Applicants respectfully request that the rejection of this claim be withdrawn.

Claims 9-10 depend directly from claim 8. As such, Applicants respectfully request that the rejection of claims 9-10 be withdrawn for at least the same reasons as those presented above in connection with claim 8.

VI. Rejection of Claim 13 Under 35 U.S.C. § 103(a)

The Office Action rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,163,524 to Magnusson et al. (hereinafter, "Magnusson"). This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claim at issue is patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in this claim.

Claim 13 depends directly from claim 8. As such, Applicants respectfully request that the rejection of claim 13 be withdrawn for at least the same reasons as those presented above in connection with claim 8 because Magnusson does not disclose, teach or suggest all of the elements of claim 8 as shown above.

VII. Allowable Subject Matter

The Office Action objected to claims 2, 6, 11, 12, 15 and 19 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See Office Action, page 6.

Claims 2, 11 and 15 have been cancelled. Claim 6 depends directly from claim 1. As such, Applicants respectfully request that the objection of claim 6 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

Claim 12 depends directly from claim 8. As such, Applicants respectfully request that the rejection of claim 12 be withdrawn for at least the same reasons as those presented above in connection with claim 8.

Claim 19 depends directly from claim 14. As such, Applicants respectfully request that the rejection of claim 19 be withdrawn for at least the same reasons as those presented above in connection with claim 14.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: 01/16/2007

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